

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2302428
Decision Date:	6/5/2023	Hearing Date:	4/25/2023
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Kathy Boileau

Interpreter:

N/A



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Coverage Date - Retroactive
Decision Date:	6/5/2023	Hearing Date:	4/25/2023
MassHealth's Rep.:	Kathy Boileau	Appellant's Rep.:	
Hearing Location:	Remote (Tel)	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated January 31, 2023, MassHealth approved the Appellant's application for MassHealth Standard benefits to cover long-term-care services in a nursing facility with MassHealth with a coverage date beginning July 1, 2022 (see 130 CMR 456 and Exhibit 1). The Appellant filed this appeal in a timely manner on March 24, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Imposition of a coverage date is a MassHealth action and is valid grounds for appeal (see 130 CMR 610.032(3)).

Action Taken by MassHealth

MassHealth limited the coverage start date to July 1, 2022.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 456 and 130 CMR 516, in determining that coverage for the member begins July 1, 2022.

Summary of Evidence

The Appellant, through the Authorized Representative, sought review of the MassHealth approval of MassHealth Standard benefits for Long-Term-Care Services in a nursing facility beginning on July 1, 2022. The Appellant was admitted to the facility on [REDACTED] 2022. (Testimony, Exhibit 5, pg. 1) In August of 2022, MassHealth sent the Appellant a Long-Term-Care Conversion Information Request. (Testimony, Exhibit 5, pg. 3). However, the Long-Term-Care Services Application was not received by MassHealth until October 31, 2022. (Testimony, Exhibit 5, pg. 4) Due to the turnover in staffing at the facility, the Authorized Representative testified she did not receive the Long-Term-Care Conversion Information Request sent by MassHealth in August. (Testimony). On January 31, 2023, MassHealth approved the Appellant for MassHealth Standard benefits to cover Long-Term-Care Services in a nursing facility with an eligibility date of July 1, 2022. (Testimony, Exhibit 1). On March 24, 2023, the Appellant timely appealed. (Exhibit 2). The Appellant is appealing the eligibility date of July 1, 2022 and seeks coverage approval to begin on [REDACTED] 2022. (Testimony, Exhibit 5, pg. 1)

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. The Appellant was admitted to the facility on [REDACTED] 2022. (Testimony, Exhibit 5, pg. 1)
2. In August of 2022, MassHealth sent the Appellant a Long-Term-Care Conversion Information Request. (Testimony, Exhibit 5, pg. 3).
3. The Long-Term-Care Services Application was received by MassHealth on October 31, 2022. (Testimony, Exhibit 5, pg. 4)
4. On January 31, 2023, MassHealth approved the Appellant for MassHealth Standard benefits to cover Long-Term-Care Services in a nursing facility. (Testimony, Exhibit 1).
5. MassHealth determined that the Appellant's eligibility date is July 1, 2022. (Testimony, Exhibit 1)
6. The Appellant seeks coverage to begin [REDACTED] 2022, the date of the Appellant's admission to the facility. (Testimony, Exhibit 5, pg. 1)

Analysis and Conclusions of Law

When a member applies for long-term-care services in a nursing facility, the member must first be assessed for eligibility:

519.006: Long-term-care Residents

(A) Eligibility Requirements. Institutionalized individuals may establish eligibility for MassHealth Standard coverage subject to the following requirements. They must

- (1) be younger than 21 years old or 65 years of age or older, or, for individuals 21 through 64 years of age meet Title XVI disability standards or be pregnant;
- (2) be determined medically eligible for nursing-facility services by the MassHealth agency or its agent as a condition for payment, in accordance with 130 CMR 456.000: Long Term Care Services;
- (3) contribute to the cost of care as defined at 130 CMR 520.026: Long-term-care General Income Deductions; for an individual and, for married couples where one member of the couple is institutionalized, have assets that are less than or equal to the standards at 130 CMR 520.016(B): Treatment of a Married Couple's Assets when One Spouse is Institutionalized; and
- (5) not have transferred resources for less than fair market value as described at 130 CMR 520.018: Transfer of Resources Regardless of Date of Transfer and 520.019: Transfer of Resources Occurring on or after August 11, 1993.

In the instant appeal, the Appellant was approved for MassHealth Standard benefits to cover Long-Term-Care Services in a nursing facility. (Testimony, Exhibit 1)

456.407: Clinical Authorization of Nursing-facility Services

(D) If the Mass Health agency determines that a member is eligible for nursing-facility services, the MassHealth agency will issue a notice that contains the effective date of coverage and the patient-paid amount. This notice is confirmation to the facility that the MassHealth agency has authorized payment of nursing-facility services for the member.

Here, the effective date of coverage was determined to begin on July 1, 2022. (Testimony, Exhibit 1). This is based upon an October 31, 2022 Application for Long-Term Conversion date, which preserved an eligibility date three months prior, to begin on the first day of the month of July. (Testimony, Exhibit 5, pg.4) The MassHealth Eligibility section, found at 130 CMR 516, expressly states when an eligibility determination may begin:

516.006: Coverage Date

(A) Start Date of Coverage.

(1) For individuals applying for coverage, the date of coverage for MassHealth is determined by the coverage type for which the applicant may be eligible. 130 CMR 519.000: MassHealth: Coverage Types describes the rules for establishing this date.

(2) The begin date of MassHealth Standard, Family Assistance, or Limited coverage ***may be retroactive to the first day of the third calendar month before the month of application***, if covered medical services were received during such period, and the applicant or member would have been eligible at the time services were provided. If more than one application has been submitted and not denied, the begin date will be based on the earliest application that is approved. Retroactive eligibility does not apply to services rendered under a home- and community-based services waiver provided under section 1915(c) of the Social Security Act. (Emphasis added)

In the instant appeal, the Appellant's eligibility has been approved, retroactive, to the first date of the third calendar month (July 1, 2022) before the month of application (October, 2022). The Appellant seeks a retroactive application of MassHealth Standard beyond the third calendar month before the month of application. However, the Financial Eligibility section of the Regulations, 130 CMR 520, explains the requirements and limitation of eligibility:

520.001: Introduction to General Financial Requirements

(A) 130 CMR 520.000 describes the rules governing financial eligibility for MassHealth. 130 CMR 520.000 is based on financial responsibility, countable income, and countable assets.

(B) The methods for the calculation of the countable-income amount, the deductible, and the income standards used in the determination of eligibility are also explained in 130 CMR 520.000.

Moreover, the Asset Reduction section of the Financial Eligibility section, explicitly limits the retroactive application of an eligibility date:

520.004: Asset Reduction

(C) Date of Eligibility. The date of eligibility for otherwise eligible individuals described at 130 CMR 520.004(A)(1)(b) is the date that his or her incurred allowable medical expenses equaled or exceeded the amount of his or her excess assets.

(1) If after eligibility has been established, an individual submits an allowable bill with a medical service date that precedes the date established under 130 CMR 520.004(C), the MassHealth agency readjusts the date of eligibility.

(2) In no event will the first day of eligibility be earlier than the first day of the third month before the date of the application, if permitted by the coverage type. (Emphasis added)

Although MassHealth Standard benefits for long-term-care services in a nursing facility may be retroactive to the first day of the third calendar month before the month of application, as they were here, “in no event will the first day of eligibility be earlier than the first date of the third month before the date of application.” Therefore, this appeal is DENIED.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Patrick Grogan
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: Justine Ferreira, Taunton MassHealth Enrollment Center, 21 Spring St., Ste. 4, Taunton, MA 02780, 508-828-4616